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LATE MILILANI GROUP, INC.

1/29/08

Fax

To: SENATOR SUZANNE CHUN OAKLAND **From:** DIANA UYEMATSU

Fax: (808) 586-6131 **Pages:** 3

Phone: **Date:** 1/30/2008

Re: SENATE BILL SB2148/2599 **CC:** PATRICK W. SOUZA

Urgent **For Review** **Please Comment** **Please Reply** **Please Recycle**

SENATE COMMITTEE ON HSP - REGARDING SB 2148/2599

Please see the attached and can you add this to your package for yesterday's hearing.

Many Thanks,

D.Uyematsu

THE SENATE
TWENTY-FOURTH LEGISLATURE, 2008
STATE OF HAWAII

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TO: COMMITTEE ON HUMAN SERVICES AND PUBLIC HOUSING
REGARDING: S.B. NOT 2148 and S.B. 2599

This is my testimony in writing per your request. My name is Diana Uyematsu and I am a sales counselor for Mililani Memorial Park and Mortuary and have been there for 21 years. I've helped thousands of families in my career. I am totally opposed to this bill primarily because it will inadvertently do away with Pre-need. My most salient argument at that point, when I gave my testimony, was that in servicing families, there is such a big relief and peace of mind when at time of need, all the arrangements have been taken cared of. . . and on the other hand, the stress and pain that results from not having the money and having to struggle to come up with the funds when someone passes away. It's night and day.

But. . . after the testimonies, Senator Ihara brought up his main concern which appears to be that he worries that if all the families that purchased Pre-need services were to pass away all at once, would we have all the money in trust! Now isn't that a bit "unreal"! Do the banks have all the money in their vaults which have been deposited by families? Or for that matter, do the insurance companies have all the money in their reserves to satisfy all claims? Of course not! In Senator Ihara's defense, it is very crucial that monies be there to protect the consumer.

We at Mililani Memorial Park and Mortuary have never had any incidence of not servicing a contract, due to lack of funds. We pay thousands of dollars for annual audits to ensure that we're in compliance with FTC and state regulations. If other mortuaries have been in violation, punish them, not us. But the biggest devastation here would be the result that families would be the ones losing out. And if we are to be consumer oriented, then let us allow

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the consumer the rights he's been accustomed to for many decades here in Hawaii.

As for the insurance option – how shallow! Not everyone is allowed to buy insurance. If a person is terminally ill he may be allowed to buy some \$10,000 or \$5,000 policy, and I'm being generous in saying that. But when purchasing funeral plans, anyone under any circumstances can purchase. I could go on and on . . . Thank you very much for your kind attention.

Much Aloha,

A handwritten signature in cursive script, reading "Diana R. Uyemotui". The signature is written in black ink and is positioned below the typed text "Much Aloha,".



Laura Manis Testifier

LATE TESTIMONY

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COMMITTEE ON HUMAN SERVICES AND PUBLIC HOUSING

Senator Suzanne Chun Oakland, Chair
Senator Les Ihara, Jr., Vice Chair

Tuesday, January 29, 1:30 pm. Room 016

SB 2148 RELATING TO FUNERALS.

Establishes requirements for pre-need funeral and interment salespersons. Establishes requirements for the solicitation of pre-need funeral and interment goods and services. Makes various amendments to the laws governing pre-need funeral and interment contracts and trusts.

SUPPORT

Kokua Council whose mission includes advocating for the health of the elderly and those vulnerable populations who can not advocate for themselves supports this bill.

- **Hawaii is one of two states with the worst oversight and protection for citizens investing in funeral prepayment plans.**
- **Pre-paid plans refund only 70% of cost on cancellation even though they are already keeping the interest earned by the trust.**
- **We are please to see that this bill requires 100% of the funds paid by the purchaser shall be transferred to the trustee to remain in trust and if the contract is cancelled in 7 of purchase, the purchaser gets 100% of the amount paid at purchase.**

This bill is a step in the right direction and we hope you will support it.

We ask that you will support this bill.
Laura G. Manis, Legislative Chair, Kokua Council
tel. 597-8838

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COMMITTEE ON HUMAN SERVICES AND PUBLIC HOUSING

Senator Suzanne Chun Oakland, Chair
Senator Les Ihara, Jr., Vice Chair

WITNESS TESTIMONY

Tuesday, January 29,
1:30 pm.
Conference Room 016

SB 2148 RELATING TO FUNERALS.

Establishes requirements for pre-need funeral and interment salespersons. Establishes requirements for the solicitation of pre-need funeral and interment goods and services. Makes various amendments to the laws governing pre-need funeral and interment contracts and trusts.

I am an interested citizen and am writing to **support** this bill.

I am a frail elderly and feel that I have been taken. I am just gaining knowledge of the situation and this bill seems to have good protections.

Thank you,
Charles Shoppach
538-3598

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COMMITTEE ON HUMAN SERVICES AND PUBLIC HOUSING

LIVE TESTIMONY

Senator Suzanne Chun Oakland, Chair
Senator Les Ihara, Jr., Vice Chair

Tuesday, January 29,
1:30 pm.
Conference Room 016

SB 2148 RELATING TO FUNERALS.

Establishes requirements for pre-need funeral and interment salespersons. Establishes requirements for the solicitation of pre-need funeral and interment goods and services. Makes various amendments to the laws governing pre-need funeral and interment contracts and trusts.

Support

My name is George Lee and I am testifying as a concerned citizen. This bill will protect persons who purchase pre-need funeral plans.

Present regulations for the Funeral Industry are not fair to the purchaser. Refunding of premiums should be increased if the policy is cancelled.

Thank you
George Lee, concerned consumer and citizen
735-4550

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STATEMENT FROM
ASSOCIATION OF PRENEED FUNERAL PLANS, INC.

TO THE COMMITTEE ON HUMAN SERVICES AND PUBLIC HOUSING

SUBJECT: ✱ SENATE BILL 2148, A Bill Relating to Funerals
 ✱ SENATE BILL 2599, A Bill Relating to the Funeral Industry

HEARD ON: Tuesday, January 29, 2008
 1:30 P.M.

THIS ASSOCIATION **STRONGLY OPPOSES** the proposed changes to Chapter 441 of the Hawaii Revised Statutes, entitled "RELATING TO FUNERALS" and offers the additional testimony set forth below.

This Association consists of several pre-need authorities doing business in the State of Hawaii together with those entities currently seeking application for pre-need licenses. Discussions within our organization confirm that the enactment of either of these bills in their present state would cause many pre-need authorities to cease offering pre-need contracts. The pre-need authorities cannot afford to subsidize this product from current operations.

The most immediate and direct result would be the loss of more than 200 sales positions in the industry. Many of these pre-need advisors have been working in this industry for more than 25 years.

However the greater loss would be the availability of the pre-need contract to Hawaii consumers. **THERE ARE MANY CONSUMERS WHO FIND BENEFIT AND COMFORT THROUGH ACQUIRING A PRE-PLANNED AND PREPAID FUNERAL SERVICE CONTRACT.**

Lastly let me offer some statistics of which this industry is very proud. From information gathered from three pre-need authorities, there have been in excess of 50,000 pre-need contracts which have been fully serviced since being granted their pre-need licenses; a fully serviced contract refers to a consumer who bought a pre-need contract and whose family received the contracted service. In the last 36 months, Better Business Bureau has a record of only one complaint being received. (This complaint was resolved, and I believe it did not involve a pre-need contract.). The Department of Commerce and Consumer Affairs maintains a similar exemplary record for our industry. Further our pre-need contracts have been incorporated in benefit packages to many groups and associations. Organizations such as Honolulu Police Department, Honolulu Fire Department, HSTA and HGEA; Unions such as IBEW, Iron Workers Union Local 625, Local 5 Hotel Workers, Operating Engineers, and Teamsters Local 996; Federal Credit Unions, Religious Organizations and community associations have found merit to promoting these pre-need contracts to their members.

We are extremely troubled by the introduction of the proposed legislation. We do not believe there is sufficient support for its ratification.

RESPECTFULLY SUBMITTED,

Eadean M. Buffington, for the Association

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heard. Our testimony is broken down into two categories: 1) provisions with which we would have no objections if appropriately amended, and 2) two provisions that we must respectfully oppose.

First, the Department supports initiatives that will work and will help consumers. Within S.B. 2148 and S.B. 2599 there are several provisions that meet this objective and, subject to suggested amendments, the Department would support. They include the following:

- Rather than create a new licensing process for salespersons of cemetery and pre-need funeral authorities, the bill should instead place the onus on the authorities to hire such personnel in accordance with the enumerated qualifiers in the bill. This would be consistent with the Legislative Auditor's position in a sunset report of 1981, where at the time salespersons were regulated and licensed under Chapter 441, HRS, but where the Auditor recommended repeal of salesperson licensing (which was effectuated). The Auditor believed control of sales practices would be best accomplished by assigning clear responsibility to the authorities for their salespersons. With that in mind, Chapter 441, HRS, has numerous provisions that hold the authority responsible for disclosure and sales practices by their company (and by any agent of the company). However, if the Committee would like to make authorities more accountable and conform their hiring criteria to include the standards set forth, then this mandate on the authority would be set forth in the bill. We note though

that prohibition of a felony conviction should not contradict Chapter 831, HRS;

- Whatever policy position is taken on the percentage that may be received by authorities from the sales of pre-need interment and pre-need funeral services and merchandise, we urge that the financial solvency of a cemetery or pre-need operation not be negatively impacted as that will harm consumers. Further, we are unsure if it was an inadvertent omission but the bills would not allow authorities to recover costs for operational expenses, as they currently are allowed to do;
- Providing a confirmation notice to the purchaser of payments received could be informative if it is not onerous on the Trustee nor increase costs to purchasers of pre-need services and merchandise. We suggest clarification of when such notice is to be provided (e.g., with each payment, quarterly, semi-annually, yearly) in order for impacts to be determined;

Provisions specific only to S.B. 2599 that the Department would support if suggested amendments are adopted, include the following:

- As set forth, the proposal for the Department to conduct yearly audits for a period of three (3) years of pre-need authorities can be done but the provision should be amended to include "cemetery authorities", change the start-up date to fiscal year 2009, and clarify whether such reports are public record;

- We strongly prefer continuation of the existing cash basis for audited financial statements (in lieu of the proposed accrual method); but consistent with our practices suggest that clarification be inserted that “The audited financial statements shall include a statement of financial position, statement of activities, and statement of changes in net assets.”
- As a deterrent to late filing of audited financial statements, imposing a “late fee” versus a “penalty” would alleviate the possibility of a Chapter 91, HRS proceeding. Further, if this deterrent is to apply to all pre-need authorities, then “pre-need funeral authority” should be added to the provision. Also, new language giving the Department authority to set the late fee through rule adoption is suggested; and
- Language stating that actuarial studies focus on a “fiscal year” basis may need further clarification that this includes year end closing based on a “calendar year”.

The two provisions in S.B. 2599 which the Department must respectfully oppose include the following:

- The requirement that the reports of our contracted CPA consultant be public. DCCA uses such reports in its regulatory pre-decisional and deliberative process. Making these reports public would frustrate a legitimate government function if disclosed and, pursuant to HRS 92F-13(3), such information is exempt from disclosure. The Office of

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Information Practices (OIP) has issued several opinions on similar situations (see OIP Opinion Numbers 90-21 and 91-16) and we find no reasons why the cemetery statute should contradict HRS 92F.

- The requirement for the department to develop an audited financial statement form. We believe that with the yearly audit to be done by the Department on pre-need authorities and audited financial statements filed on the trusts, an additional audited financial statement form seems unnecessary, in addition to being very difficult if not impossible to develop given the numerous variables involved. The Department does not shy away from challenges, but the amount of time and effort required to develop a standard statement form could not be justified in light of the lack of demonstrated need for or benefits of such a form.

Thank you for the opportunity to testify on S.B. 2148 and S.B. 2599. Should the Committee move these bills forward, we ask that you include our suggested amendments.

THE COMMITTEE ON HUMAN SERVICES AND PUBLIC HOUSING
LATE

MY NAME IS GLADYS M. SEDENO, I AM A KUPUNA AND LIVE IN MILILANI. I HAVE JUST PAID FOR MY FUNERAL TRUST PLAN AND PLAN TO BUY MORE, EXCEPT FOR THIS SB BILL 2148 WHICH WILL PREVENT ME FROM MAKING A CHOICE, BECAUSE THE PRE NEED PROGRAM WILL BE ELIMINATED.

THIS IS SO BAD, YOU CAN'T BE SERIOUS ABOUT DOING THIS TO ME AND MY FAMILY AND EVEN THE GENERAL PUBLIC. SECTION FIVE (5) OF THE SB BILL 2148 NEEDS TO BE ELIMINATED. THE 100% IN TRUST WILL ELIMINATE THE PRE-NEED PROGRAM NOW ONGOING AT THE FUNERAL HOME I CURRENTLY PURCHASE MY PLANS. MY FAMILY SINCE 1966 HAS PURCHASED PLANS AND YOU KNOW AFTER IT'S PAID OFF, THE 70% THEY PUT INTO TRUST, PAID OFF MY FAMILIES SERVICES 100%. FROM THE TIME WE PURCHASED TO THE TIME OF DEATH, I AM POSITIVE THAT THE COST OF SERVICES AND GOODS WENT UP AND YET WE DID NOT PAY ANY ADDITIONAL COST.

I WORRY ABOUT MY CHILDREN AND GRAND CHILDREN WHO WILL HAVE TO PAY MORE FOR THEIR FUNERAL TRUST, SO PLEASE ELIMINATE SECTION 5 REGARDING THE 100% TRUST.

MANY THANKS,


GLADYS SEDENO



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To Whom It May Concern:

My father, Wayne C. B. Lo, passed away on May 14, 2007 at Wahiawa General Hospital. Amidst all the shock and grief that a surviving family member goes through, one of the things they think about is, "I can't believe he's really gone!", who to call to tell the sad news, etc. But they are also presented with practical and hard core questions to handle. Did he have a funeral plan? Did he let his wishes be known? Did he want burial or cremation? Where do you want us to send his body? The family then asks each other the very same questions and is looking for the one who would be willing to be primarily responsible to handle all these questions. They are also wondering silently to themselves how much will all this cost and who will be planning it. I am writing this to explain how my dad's gift of having a plan brought much solace during such a bereaved time.

Out of his five children, I was the closest one to dad and I do remember him telling me over and over that when his time would come, that he took care of everything. As he got older and his health started to decline more, he reminded me of the same thing. He was proud that he had a funeral plan through Mililani Memorial Park and he even told me he had all the paperwork done including the business card of the person/persons who helped him handle it. He had done this years before his passing. Of course we were at the hospital at this time and I didn't know exactly what to do. The first person I thought of was a friend of mine, Michelle Sakurada, who worked at Mililani Memorial Park part-time. After expressing her condolences to me, she made some phone calls, then told me my next steps.

I was able to let the nurse know where to bring my dad's body. That alone brought us much comfort during such a stressful time.

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SB 2148

The next step was to the office at Mililani Memorial Park in Waipio where the funeral director, Paul Nieva, attended to our need. I was so surprised to learn how smoothly and easily all of my dad's funeral plans went. They had dad's plan in their files and my dad gifted all of us by relieving us of the undue stress of making decisions for him. Dad had chosen his own design for his casket, made his preference of having his service at the Mauka Chapel (it was bigger and newer), use of their cafeteria for lunch, opted for the limousine service, noted he preferred a veteran;s type burial first, then his second choice if unable to, type of funeral service, etc. Finding out that dad had already fully paid for all of this brought tears to our eyes. The cost was in the thousands. We just had to pay a few hundred dollars for some things that had to be done at-need versus pre-need.

I didn't realize how much dad truly loved us until that time. The fact that my dad took care of his own funeral plan made me love him even more. Usually, funeral planning is very stressful and a financial burden to all those involved. In this case, it was quite the opposite. Because of this experience, I shared with my husband how we should do the same thing for our only son. We seriously discussed obtaining our own funeral plans for each of us so that when our time comes, our son can experience the same type of peace I went through. We didn't have to think too long about it and the next thing I did was to contact my same friend who helped me out from the beginning.

My hope is that an individual will have the same freedom to choose his or her own funeral plan of his or her own choice. If only my dad knew what a true gift he left his family.

Sincerely,

Laurie Panu

SB 2148

A Celebration of Life Service **LATE**

Mililani Mauka Chapel

June 12, 2007



Wayne Chung Borne Lo

(January 1, 1925 - May 14, 2007)

Beloved Husband, Father, Grandfather, and Great Grandfather

Darlani Nazarino-Gaspar
91-1018 Kani`o Street
Kapolei, HI 96707
(808) 693-8782

LATE

January 29, 2008

To Whom It May Concern:

I understand that the legislature in Hawaii is trying to pass a law abolishing the right to the purchasing of funeral plans and using a payment plan when purchasing a funeral plan. As a citizen of Hawaii and of the United States I feel that this is a violation of our right for the freedom of choice. We should be allowed to purchase a funeral plan if we want to not only in preparation for our death but in helping our family members that will be our survivors and not leave the funeral costs for them to have to pay.

So if this law is passed we should consider also abolishing the right to purchase life insurance also because life insurance is similar to the purchase of funeral plans. You don't buy the policy in one full lump sum, you make monthly payments also and in hopes that you do not die before the policy reaches it's full worth then your beneficiaries or yourself will benefit from the life insurance policy. The purchase of funeral plans is the same concept as life insurance so if legislature wants to abolish the purchasing of funeral plans legislature might as well abolish the purchase of life insurance too.

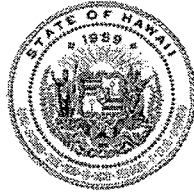
In closing, I hope legislature takes into consideration all of the lives they will be affecting probably their own parents, grandparents, their children, and grandchildren, and most of all themselves. I hope all legislature officers already have their funeral plans purchased in full.

Sincerely,



Darlani Nazarino-Gaspar





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LINDA LINGLE
GOVERNOR

JAMES R. AIONA, JR.
LT. GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
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LAWRENCE M. REIFURTH
DIRECTOR

RONALD BOYER
DEPUTY DIRECTOR

**PRESENTATION OF THE
PROFESSIONAL AND VOCATIONAL LICENSING DIVISION**

TO THE SENATE COMMITTEE ON
HUMAN SERVICES AND PUBLIC HOUSING

TWENTY-FOURTH LEGISLATURE
Regular Session of 2008

Tuesday, January 29, 2008
1:30 p.m.

**TESTIMONY ON SENATE BILL NO. 2148, RELATING TO FUNERALS AND
TESTIMONY ON SENATE BILL NO. 2599, RELATING TO THE FUNERAL
INDUSTRY.**

TO THE HONORABLE SUZANNE CHUN OAKLAND, CHAIR,
AND MEMBERS OF THE COMMITTEE:

My name is Noe Noe Tom, Licensing Administrator of the Professional and Vocational Licensing Division, Department of Commerce and Consumer Affairs ("Department"). With the Committee's indulgence, we are presenting this testimony to cover both S.B. 2148 and S.B. 2599 as there are common threads between the two proposals and our comments are similar and applicable to both. S.B. 2599 contains issues not found in S.B. 2148, and we have addressed these issues within this testimony but will address them separately if the Committee prefers, when S.B. 2599 is

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*ORIG Doc
Copied
for testimony*

Senator Susan Chun Oakland
Chairman
Committee of Human Services & Public Housing

Honorable Susan Chun Oakland,

Last year the legislature passed Act 188 working with the funeral industry, Department of Commerce & Consumer Affairs and legislature. We are now complying with the act and have printed our forms to be in compliance with Chapter 441 as amended by Act 188. Although we have incurred additional cost we were happy to be part of the solutions to consumer concerns.(1) Now we are faced with two bills SB2148 & SB2599 to which the Hawaii Allied Memorial Council is opposed to 100% trusting does not provide for operational cost of running a funeral plan business.(2) It also requires licensing of sales people, which DCCA did away with 20 years ago as not necessary as sales people are agents of a licensed authority. (3) It is common knowledge that sales people do identify themselves, who they represent and if allowed a sales presentation that truthfully represents their company with all the appropriate paper work to transact a contract. (4) We all maintain a "do not call list" because that is just good business to do so and do not need a new law to tell us that this is a good business practice. (5) It is also good business sense not to make solicitation calls late in the evening and we don't need a law to tell us that.(6) Since by law our pre-need contracts are "trusted-funded", it would be difficult to not tell clients about the trust fund as a depository of funds. (7) We don't solicit persons in hospitals, nursing homes, or other long term facilities unless requested by family members, I don't think we need to codify this practice into law. (8) Three working days to cancel a contract hasn't been a problem. (9) This bill also requires the trustee to send confirmation notice that payments have been deposited within 30 days, this poises a problem because we give out client's monthly payment to complete payment of their contracts. Clients are given receipts of payments when payments are made and a certificate of completion is sent when the plan is fully paid.

In summary this proposed bill would put a hardship on our industry and likely force the closure of all pre-need funeral plans and pre-need cemetery plans. The National Funeral Directors Association is a "At Need" industry and benefits by not having pre-need funeral plans sold. Without pre-need funeral plans the "At Need" mortuaries can charge whatever the "market will bear" and eventually there will be a call to regulate what the "At Need" mortuaries can charge. Pre-need plans actually keep down the price for funeral services as the plans are used for future service at today's prices. The emotional side of pre arranging is just as important as the financial side and most people pre arrange to help there families make handling death in family easier at the worst time of their lives. Please do not pass this legislation and let us work to comply with Act 188 which has the support of the industry and DCCA.

Yours truly,



Jerome Andrade

President

Hawaii Allied Memorial Council